

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section)
73.202(b),)
Table of Allotments)
FM Broadcast Stations)
(Cambridge and)
St. Michaels, Maryland))

MM Docket No. 92-291
RM - 8133

To: Chief, Allocations Branch
Stop Code 1800D5

COMMENTS OF PRETTYMAN BROADCASTING COMPANY

Nancy L. Wolf
D'wana R. Speight

DOW, LOHNES & ALBERTSON
1255 23rd Street, N.W.
Suite 500
Washington, D.C. 20037
(202) 857-2500

Counsel for
PRETTYMAN BROADCASTING COMPANY

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SUMMARY

The history of Channel 232A reveals that the reallocation proposed by the Notice is not in the public interest. Grant of the proposed reallocation would not only compromise the integrity of the FCC's allocation process but would adversely affect other licensees and Cambridge residents.

First, grant of the proposed reallocation would undermine the FCC's 1985 allocation of Channel 232A to Cambridge. Ironically, C.W.A. Broadcasting, Inc. ("CWA") has reversed the basis of the FCC's earlier decision -- that Cambridge already has a local FM service -- and uses it to support the proposed reallocation. As a result, by granting a second reallocation of Channel 232A, the FCC would provide a means by which permittees could engage in "community shopping" --where a proposed station's community of license could be changed numerous times before the new FM service is provided.

Second, during its almost two-year tenure as the Cambridge permittee, CWA failed to make any progress, substantial or otherwise, towards the construction of a FM facility. Despite this prolonged inaction, CWA now proposes to reallocate Channel 232A to St. Michaels, a community significantly smaller than Cambridge already receiving city-grade service from eight radio stations. Also, some of CWA's recent actions cast serious doubts on whether it will

be able to fulfill its Channel 232A obligations -- (a) to construct a FM facility and (b) to reimburse Prettyman's expenses associated with changing WICO-FM's frequency of operation. Therefore, before CWA is allowed to undertake this seemingly more expensive venture, Prettyman urges that the FCC should require CWA to demonstrate its ability to fulfill such obligations including a re-certification of its ability to reimburse Prettyman.

Third, CWA's proposal highlights the need for the FCC to strike an equitable balance between the interests of permittees for new FM stations and those of licensees who change their channels of operation in order to accomodate such new stations. Not only has Prettyman's ability to make technical and marketing plans for WICO-FM's future operation been hampered by the uncertainty and delay surrounding CWA's construction of a Cambridge FM facility but also the Cambridge residents still await the arrival of a second FM service promised years ago.

Accordingly, the FCC should deny the proposed reallocation, instruct CWA to re-certify to its ability to reimburse Prettyman and provide some form of relief for licensees like Prettyman who have been ordered to change their channels of operation when the permittees for the stations requiring such channel changes fail to provide the new service expeditiously.

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COMMENTS OF PRETTYMAN BROADCASTING COMPANY

Prettyman Broadcasting Company ("Prettyman"),
licensee of Radio Station WICO-FM, Channel 232A^{1/},
Salisbury, Maryland, through its attorneys, hereby submits
its comments in response to the Commission's Notice of
Proposed Rule Making in the above-captioned proceeding^{2/}
issued in response to a Petition for Rule Making filed by
C.W.A. Broadcasting, Inc. ("CWA"), permittee of unbuilt
Radio Station WFBR(FM), Channel 232A, Cambridge, Maryland
("WFBR").

1/ The FM Table of Allotments indicates that Channel 248A
is assigned to Salisbury, Maryland. However, pursuant to
FCC authority received in 1986, as detailed herein, WICO-FM
is permitted to continue to operate on Channel 232A until
such time as the permittee of Channel 232A at Cambridge,
Maryland initiates program tests. See Note 7, infra.

2/ Notice of Proposed Rule Making, MM Docket No. 92-291,
released December 14, 1992 (the "Notice").

Introduction

On November 16, 1992, CWA filed its Petition for Rule Making (the "Petition") seeking to reallocate Channel 232 from Cambridge (pop. 11,514, 1990 Census) to St. Michaels (pop. 1,301, 1990 Census). This reallocation will have a profound adverse impact upon WICO-FM, a radio station in operation on Channel 232A in Salisbury for nearly 25 years (during the past seven years of which the continuation of such operation has been contingent upon the construction of a facility for WFBR). For the reasons set forth below, Prettyman submits that the FCC should reject this reallocation proposal.

Factual Background

In November of 1984, the FCC issued a Notice of Proposed Rule Making^{3/} in response to a petition for rule making, which was filed by an entity other than CWA, proposing amendment of the FM Table of Allotments by allocating Channel 232A to Cambridge, deleting the same channel from Salisbury and allocating Channel 248A to Salisbury. At that time WICO-FM was in operation on Channel 232A at Salisbury so that the allocation of a second FM

^{3/} 49 Fed. Reg. 46444, published November 26, 1984 (the "1984 Notice").

service required a change in WICO-FM's frequency.^{4/}

Prettyman opposed the channel change on the grounds that it had built and put on the air a station on Channel 232A (94.3 MHz), had operated that station for over fifteen years on the same frequency and was extremely reluctant to change its heavily-promoted community identity as "Country 94".

However, Prettyman did agree to accommodate the channel change provided that WICO-FM would not be required to change its transmitter site and would be reimbursed for its reasonable expenses associated with relocating to Channel 248A.

On August 20, 1985, the FCC issued a Report and Order effectuating the proposed amendment.^{5/} The Report and Order made the channel changes effective on September 25, 1985, announced a filing "window" for applications for a construction permit for a new FM station on Channel 232A at Cambridge, Maryland, and permitted Prettyman to continue operating WICO-FM on Channel 232A until September 27, 1986.^{6/}

^{4/} When the petition was filed and the 1984 Notice was issued by the FCC, there were two radio stations already licensed to Cambridge -- WCEM(AM) and WCEM-FM.

^{5/} Report and Order, MM Docket No. 84-1043, released August 20, 1985.

^{6/} Id.

During the filing window for the new Cambridge channel, six mutually exclusive applications, including that of CWA, were filed. As a result, the FCC commenced a comparative proceeding for purposes of selecting the ultimate permittee for Channel 232A.^{1/} Ultimately CWA was found to be the superior applicant and awarded the Cambridge FM construction permit.^{2/} The decision awarding the Cambridge FM permit to CWA was vigorously appealed by the losing applicants.^{3/} After exhausting their administrative remedies, on April 6, 1990 the losing applicants filed appeals of the FCC's decision with the U.S. Court of Appeals for the District of Columbia. On June 12, 1991, the losing applicants' appeals were withdrawn.

^{1/} On September 3, 1986, Prettyman requested and received on September 19, 1986 the FCC's permission to continue WICO-FM's operations on Channel 232A until the ultimate Cambridge permittee initiated program tests. See Letter from Charles Schott, Chief, Policy and Rules Division, dated September 19, 1986.

Although Prettyman formally requested authority for such continued operation, it is now customary for licensees that have been ordered to relocate to another frequency to continue operations on their current frequency until the operations necessitating such relocation are ready to commence. See Report and Order (Othello, East Wenatchee and Cashmere, Washington and Wallace, Idaho), 6 FCC Rcd. 6476 (1991).

^{3/} Big Bay Broadcasting, 3 FCC Rcd 6481, 6488 (ALJ 1988).

^{2/} The award of the Cambridge FM permit to CWA was affirmed by the Review Board. 4 FCC Rcd 4676 (1989). And, the full Commission denied review of the lower decisions. 5 FCC Rcd 1294 (1990).

Since 1990, when the FCC issued the WFBR permit, CWA has not commenced any construction of the Cambridge facility. CWA has filed a total of three applications pertaining to WFBR -- namely, one minor modification application proposing a transmitter site change and two extension of time applications.^{10/} The FCC has granted all of these applications. Notably absent from CWA's extension applications was documentation of any affirmative steps by CWA to satisfy the requirements of Section 73.3534 of the FCC's rules by demonstrating that substantial progress had been made in completing the construction of the proposed new FM station on Channel 232A. To date, CWA has ordered no equipment and has failed to obtain a site for the WFBR tower. Instead, CWA has remained preoccupied with obtaining a reversal of an adverse zoning decision rather than actively pursuing alternative means by which to provide service. By its filing of the Petition to reallocate unbuilt Channel 232A to St. Michaels, it is evident that CWA, despite all prior promises, has abandoned its plans to construct a Cambridge facility.

The Notice now proposes to amend the FM Table of Allotments by reallocating Channel 232A to St. Michaels and deleting it entirely from Cambridge. Prettyman urges the

^{10/} See FCC File Nos. BMPH-920205JX and BMPH-920828JK. Attached hereto, as Exhibits 1 and 2, are copies of the extension applications filed by CWA.

Commission not to grant the Petition in view of its negative impact upon both the public interest and upon the status of WICO-FM.

**The Public Interest Will Be Best Served
By Maintaining the Current Allotments**

Although CWA contends that grant of its proposal will "result in a preferen[t]ial arrangement of allotments," the Petition, unlike other routine proposals to change a station's community of license, threatens the integrity of the FCC's processes -- namely, the FCC's allocation process. As detailed herein, CWA acquired the Cambridge FM permit for Channel 232A after a lengthy and intense comparative hearing proceeding resulting from an earlier rulemaking in which the channel was initially allocated to Cambridge on the grounds that Cambridge merited an additional local FM service. Not only did a total of six applicants file construction permit applications for the Cambridge FM permit, but two of the applicants still expressed an interest in acquiring the permit as recently as early 1991.^{11/} Moreover, when Channel 232A was allocated to Cambridge, a FM station already was licensed to the community. Now, less than two years after the award of the Cambridge FM permit became final and almost

^{11/} It should be noted that CWA was awarded the Cambridge FM permit over the losing applicants due to its proposed 100% integration of its principal which was qualitatively enhanced by his minority status, substantial past broadcast experience and involvement in civic activities within the proposed service area. 3 FCC Rcd at 6485, 6488.

eight years after the initial Cambridge allocation, CWA seeks to strip the Cambridge community of the FM channel for which there was an FCC-determined public interest basis, and for which it and others so vehemently vied without ever having made any cognizable progress towards construction of a new FM facility.

In light of the significant interest expressed in allocating Channel 232A to Cambridge, requiring a long-existing FM station to change frequencies in order to accommodate the new service, the subsequent interest shown by six applicants in the construction of a new FM service at Cambridge, the FCC's resources used in selecting a Cambridge permittee and CWA's failure to commence construction of a facility, the grant of the proposed reallocation would compromise the integrity of the FCC's allocation process. Such action would set the new and dangerous precedent that an entity could (1) file an application for a construction permit for a newly-allocated channel, (2) participate in a time-consuming comparative hearing, (3) obtain the construction permit, (4) hold on to the permit for several years without making any progress towards construction, (5) search for another community which meets one of the higher FCC allocation priorities and then, nine years later, (6) file a petition to change the community of license for

the acquired channel.^{12/} In sum, the grant of CWA's proposal would provide an opportunity for permittees to engage in endless "community shopping."

The current status of Channel 232A raises a "community shopping" concern triggered by the proposed reallocation. Channel 232A was sought and allocated to Cambridge to serve the public interest after it was determined -- in 1985 -- that Cambridge deserved a second local service. Several parties, including CWA, expressed an interest to provide such service by filing applications for the channel. CWA was determined to be the successful applicant through a comparative proceeding. Almost five years since the FCC's initial award of the permit to CWA, Cambridge is no closer to receiving its second FM service because CWA has failed to make any progress towards construction of the Cambridge facility. Instead, CWA now ironically contends that Cambridge is less deserving of the additional FM service.

^{12/} It should also be noted that when it adopted this type of proceeding for changing a community of license, the FCC expressed concern that the procedure might be used in a manner where the integrity of the comparative hearing process would be compromised. See Amendment to the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC Rcd 7094 (1990). Prettyman submits that the same or similar concerns are implicated here when CWA's proposal is viewed against the background and procedural history of the allocation of Channel 232A.

Against this factual background, the Petition effectively amounts to a grossly untimely counterproposal to the allocation proposed in 1984. The Petition, premised on a preferential allocation of frequencies argument, returns to the same argument used for the initial allocation of Channel 232A to Cambridge. The difference in the stated basis for the proposed reallocation is that the argument now has been reversed to conclude that St. Michaels is more deserving than Cambridge of a new channel since Channel 232A would provide a second local service for Cambridge! What CWA has conveniently overlooked, however, is that such an argument could and should have been made nine years ago during the 1984 rulemaking proceeding regarding Channel 232A. The impropriety and untimeliness of such argument is further evidenced by the fact that the Petition is not based on any new facts or changed circumstances arising since the release of the 1984 Notice.

The FCC, therefore, must require CWA to fully explain its reasons for abandoning Cambridge including a showing of why such abandonment is in the public interest and whether any entity would be able to construct the Cambridge facility. If some other entity is capable of constructing a FM station to provide local service to Cambridge, the more appropriate and equitable next step for WFBR would be to assign the permit to an entity that stands

ready, willing and able to initiate the promised FM service to Cambridge or to require CWA to return the unbuilt permit to the FCC so a new "window" can be opened up for qualified applicants ready, willing and able to put WFBR on the air.

By requiring any less of CWA, the 1984 rulemaking and subsequent comparative hearing proceeding for a new channel for Cambridge represent not only a futile exhaustion of the FCC's limited resources, but also a needless squandering of the time and resources expended by those parties genuinely interested in providing service to Cambridge. Such an explanation also would enable the FCC to discern whether the motivation for the proposed reallocation is due to CWA's particular circumstances. If the proposal is motivated by difficulties solely experienced by CWA, this is an insufficient basis on which to reallocate Channel 232A to yet another community because there is no guarantee that such difficulties also will not plague CWA in its efforts to construct a St. Michaels facility.

Moreover, the FCC's denial of the Petition would not cause a cognizable service detriment to St. Michaels. In fact, as shown in the attached Engineering Statement, St. Michaels currently enjoys a greater amount of radio service than does Cambridge, a city ten times larger than St. Michaels. A total of at least eight full-service radio stations provide city grade coverage to St. Michaels whereas

only four such stations offer city grade coverage to Cambridge.^{13/}

Accordingly, the FCC's denial of the Petition will encourage the implementation of the FCC's prior allocation decision regarding Channel 232A and protect the integrity of its allocation process.

CWA Should Be Required To Re-Certify To
Its Ability to Reimburse Prettyman

CWA's particular circumstances also warrant a complete demonstration of its financial ability to reimburse Prettyman for all expenses incurred in implementing the frequency change. CWA, as the ultimate Cambridge permittee, is required by the FCC to reimburse Prettyman for the reasonable expenses associated with the relocation of WICO-FM from Channel 232A to Channel 248A. Since its acquisition of the Cambridge FM permit, CWA has failed to proceed expeditiously with the construction of a Cambridge facility, and its extension applications make clear that such delay was due to difficulties experienced by CWA's major principal.^{14/} Due to the current recessionary times and the strong indication of CWA's financial difficulties,

^{13/} See Exhibit 3 (Declaration and Engineering Statement of Thomas Ringer).

^{14/} In CWA's most recent extension application, its major principal stated that "I have suffered much mentally, physically, and financially to obtain a piece of the American dream." FCC File No. BMPH-920828JK.

Prettyman's operation of WICO-FM, and its collocated WICO(AM), has remained in a state of limbo since it was not known when or even if CWA would ever build the Cambridge facility.

Although CWA has filed two extension applications, neither application evidenced any progress, much less of a substantial nature, towards construction of the Cambridge facility. The primary basis for CWA's first extension application was its inability to obtain zoning approval for its proposed site. CWA's second extension application, which merely catalogued the personal trials of its major principal, was devoid of any indication of the status of CWA's construction efforts. In fact, it was apparent from the second application that CWA had made no further progress towards selecting an alternative site since the grant of its first extension application; instead, CWA continued to dwell on the loss of its first zoning approval which occurred almost two years before.

Surprisingly, on December 14, 1992, the FCC issued the Notice announcing CWA's latest brainstorm -- the proposed reallocation. Oddly, CWA failed to mention the consideration of this reallocation option in its latest extension application. In fact, the application implied

that CWA would seek another transmitter site in Cambridge.^{15/} Although Prettyman is sympathetic to CWA's plight, CWA must not be allowed to skirt its obligations as the current "ultimate" Cambridge permittee: (1) to provide expeditious local service to Cambridge; and (2) to reimburse Prettyman's relocation expenses for WICO-FM. As demonstrated herein, the Petition casts serious doubts on CWA's ability to fulfill its service obligation to Cambridge, to which it voluntarily committed upon filing an application for the Cambridge FM permit.^{16/}

CWA's actions also have raised serious questions about its ability to fulfill its reimbursement obligation to Prettyman. As shown in Exhibit 3, CWA's major principal has indicated in several conversations that he may not have sufficient funds to construct a new FM facility and reimburse WICO-FM's relocation expenses. For instance, CWA has requested from Prettyman information concerning the expected frequency change expenses for WICO-FM and even

^{15/} In its second extension application, CWA stated that if it was "unsuccessful with the Talbot County, Maryland Planning and Zoning Office and their newly imposed restrictions, [it would] have no alternative but to locate a new transmitter site to begin construction as soon as possible." FCC File No. BMPH-920828JK.

^{16/} In light of CWA's broken promise to construct a station at Cambridge, the FCC should also look with serious doubt upon any new commitment made by CWA obligating it to construct and implement service to St. Michaels if this rulemaking is granted.

asked Prettyman to budget its own costs to keep them at a bare minimum! Despite CWA's expressions of concern about costs to Prettyman, CWA now has elected to abandon construction of the Cambridge facility for a project in St. Michaels, a well-served community surrounded by farmland with no existing radio towers in and around the community. Such a ground-breaking venture, likely necessitating the construction of a new radio tower, obviously would require an even greater financial investment. Due to the doubts raised by CWA's actions coupled with its proposed reallocation, Prettyman requests that the FCC require CWA to certify anew and fully document its ability to complete a Channel 232A facility, wherever it is eventually located, and simultaneously reimburse Prettyman for all reasonable costs incurred in effecting the channel change.

The FCC Should Establish A Deadline
For Effectuating Allocation Proposals
Affecting Other Licensees

The history of the Channel 232A allocation (1985) culminating with the current Notice (1993) exemplifies how a seemingly routine allocation decision can have a long-term adverse impact upon licensees ordered by the FCC to relocate to another channel to accommodate such allocation. Even though the FCC deems FM frequencies to be interchangeable, the reality is that many stations develop marketing strategies keyed to their particular channels.

Consequently, although the relocation of a station to another channel may appear inconsequential on paper, for a station like WICO-FM, where the station's identity is inextricably linked for nearly 25 years to its frequency of operation, such a change represents an extraordinarily significant loss of station identity within its loyal listening community. As a result, stations in positions similar to WICO-FM must determine the most effective means of changing frequency without losing all or most of the fruits of their past marketing success. Such stations have found this alone to be a challenging and arduous task.

Consequently, the relocation becomes unduly burdensome when the question of when, or indeed if, the new facility, which served as the basis for the frequency change, will be built continues to linger for a significant period of time leaving the existing station in a perpetual state of uncertainty. In fairness to the relocating licensee, the FCC should adopt a policy requiring the new permittee either to build the facility or to assign or relinquish the permit within a reasonable period of time such as five years if a frequency change including an existing licensee is involved. If the proposed facility is not constructed within five years, the station which was required to make the frequency change, should be permitted

to initiate an expedited rulemaking process to return to its original allotment.

Should the FCC allow the new permittee in these circumstances to hold on to the authorization for years without making any progress towards construction, then the FCC's initial public interest determination gradually evolves into a public disservice for several reasons:

(1) the community to which the channel has been allocated remains for years without deserved service; (2) during this period the station required to change frequencies has no indication of when, or if, it will ever actually have to move, and thus experiences a limbo where it is reluctant to incur new marketing or promotional expenses or to make technical changes to benefit its existing facility; and (3) the operations of other area stations within the minimum mileage separations are constrained by the hypothetical operation of a facility on the channel. Clearly, it is not in the public interest for the operational plans of a number of existing licensees to be held hostage by one permittee's inaction due to the lack of reasonable diligence in providing the promised service to the community where the new channel has been allocated.

The circumstances leading up to the CWA Petition provide the FCC with a classic illustration of the plight of licensees forced to change frequencies to accommodate

promised new service that never materializes. Cambridge was allocated Channel 232A as a channel for a second local FM service almost nine years ago. At the same time, Prettyman was ordered to relocate WICO-FM from Channel 232A to 248A in order to accommodate the Cambridge allocation. Prettyman, desirous of operating at maximum facilities as the FCC had encouraged, then filed a modification application with the FCC to upgrade WICO-FM to maximum facilities which would result in a significant enhancement of its service area.^{17/} Prettyman also determined that it would be most economically efficient to perform the WICO-FM upgrade at the same time that the station's channel of operation was changed to Channel 248A.

Six years after the allocation of Channel 232A to Cambridge and one year after the FCC's issuance of the Channel 232A permit, CWA's selection as the "ultimate" Cambridge permittee became final. For another two years,

^{17/} On September 27, 1985 Prettyman filed an application to increase WICO-FM's antenna height to 100 meters above average terrain permitting its operation with the maximum facilities for a Class A FM station. See FCC File No. BPH-850927IF. WICO-FM's proposed upgrade also necessitated Prettyman's filing of an application requesting modification of the facilities of collocated Radio Station WICO(AM). See FCC File Nos. BP-850927AB and BP-880301AH.

In addition, subsequent to the allocation of Channel 232A, the FCC increased the permissible maximum operating power for Class A FM stations. Amendment of Part 73 of the Rules to provide for an additional FM station class (Class C3) and to increase the maximum transmitting power for Class A FM stations, 4 FCC Rcd 6375 (1988).

CWA held the permit without ordering any equipment or securing a site for the construction of a radio tower. CWA then filed the Petition seeking the reallocation of Channel 232A from Cambridge to St. Michaels.

During its almost two-year tenure as the Cambridge permittee, CWA has not commenced operation on Channel 232A or construction of a Cambridge FM facility. Meanwhile, WICO-FM has remained on Channel 232A with less than maximum facilities since 1986 and has no indication of whether CWA will ever commence construction. Because of CWA's inaction, Prettyman is forced to put its FM upgrade plans on hold, an inequitable result having a detrimental effect upon the public interest need for greater service to the community of Salisbury, Maryland (pop. 20,592, 1990 Census). Now CWA proposes to reallocate Channel 232A to St. Michaels, a significantly smaller rural community with no radio towers in the vicinity.

If the FCC decides to grant CWA's proposed channel reallocation, Prettyman's waiting period simply begins anew. At this point, fairness should dictate that CWA not be given another opportunity to subject Prettyman, a long-time broadcaster, to further years of delay and a continued state of limbo. CWA should now be made to accommodate the interests of the other licensees and communities adversely affected by its inability to provide the promised service to

Cambridge. CWA's inaction and lack of reasonable diligence should not be rewarded with a second bite of the allocation apple.

The FCC also should note that Prettyman is not the only adversely affected party here. The Cambridge community has waited almost nine years for its promised second local FM service. After this long wait, CWA now proposes to deprive that community of any additional service for the sole reason that CWA was unable or unwilling to locate a tower site to serve Cambridge. Additionally, those Maryland residents who would receive service as a result of WICO-FM's upgrade have also been deprived of such service while CWA simply held the permit. CWA should not be allowed to continue to hoard the Channel 232A permit based on its hopes of constructing a facility somewhere at some time in the distant future. What is to prevent CWA from obtaining a modified permit to specify Channel 232A at St. Michaels, then finding itself unable, after a period of years, to complete construction of a new facility at St. Michaels, and returning to the FCC to seek reallocation of Channel 232A to yet another purportedly deserving community? Such a possibility could leave Prettyman and like-situated licensees in limbo for decades. Instead, CWA should be required to either construct the Cambridge facility

expeditiously or to give someone else the opportunity to provide the long-awaited service.

With the real-life example provided by CWA's efforts, or rather lack thereof, there is a demonstrated need for the Allocations Branch to step in and provide some guidance on this matter in order to balance more equitably the interests of the permittee of a newly-allocated channel, the community slated to receive service as a result of the allocation and the licensee(s) ordered to change frequencies for purposes of accommodating the allocation. Since Prettyman has waited more than five years to make the required frequency change, the FCC should permit Prettyman to initiate its own expedited rulemaking process to return to its original FM allocation.

Conclusion

The Petition proposes an amendment which when evaluated in light of Channel 232A's procedural history would compromise the integrity of certain Commission processes. In addition, some of CWA's actions have cast a serious doubt on whether it will ever be financially able to reimburse Prettyman's expenses associated with the relocation of WICO-FM as ordered at the conclusion of the 1984 Cambridge allocation proceeding. Prettyman, therefore, respectfully submits that the proposed amendment should be

rejected and that Prettyman be released from its obligation to change frequencies.

Respectfully submitted,

PRETTYMAN BROADCASTING COMPANY

By: Nancy L. Wolf
Nancy L. Wolf
D'wana R. Speight

DOW, LOHNES & ALBERTSON
1255 Twenty-Third Street, N.W.
Suite 500
Washington, D.C. 20037
(202) 857-2500

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